

REMARKS

Summary

Claims 1-13 were pending and all of the claims were rejected in the present Office action. Claims 8-11 have been amended. No new matter has been added. The Applicant has carefully considered the references and the arguments presented by the Examiner and respectfully traverses the rejections on the basis that a *prima facie* case of anticipation or obviousness has not been made out.

Claim Objections

Claims 8-13 were objected to on the basis of minor informalities. The Applicant expresses appreciation to the Examiner for pointing out these informalities and for helpful suggestions. The claims have been amended and the Applicant respectfully submits that the amendments have obviated the objections.

Claim Rejections

35 U.S.C. § 102(b)

Claims 1-4 and 6-12 were rejected under 35 U.S.C. § 102(b) as being anticipated by Holmstrom (US 3,784,837; "Holmstrom"). The Applicant respectfully traverses these rejections on the basis that a *prima facie* case of anticipation has not been made out.

The Applicant notes that this application has been assigned to a new patent examiner. Although using the same reference as in the previous action, numerous elements of the reference have been re-designated in making the current rejection. The following table provides a cross-reference of the Applicant's understanding of some of the identifications of elements made in the previous Office action, the present Office action, and the reference itself.

	Identification in Holmstrom	Identification in Office action of 10/19/2005	Identification in Office action of 03/30/2006
Support arm		7/9	Arm [#?] with #23 and #24
Mounting device		3/5	#9
Flange	24		Part of support arm
Horizontal axis	12	8	#12
Axle	12		

The Applicant's prior traverse was deemed moot in view of the new grounds for rejection, however there has been no change in the reference applied, nor has there been a claim amendment; nor was the Office action made final. Therefore, the Applicant concludes that the previous response had overcome the previous grounds for rejection, and the claims ought to have been allowed.

The Applicant respectfully calls attention to MPEP § 704.01

When an examiner is assigned to act on an application which has received one or more actions by some other examiner, full faith and credit should be given to the search and action of the previous examiner unless there is a clear error in the previous action or knowledge of other prior art. In general the second examiner should not take an entirely new approach to the application or attempt to reorient the point of view of the previous examiner, or make a new search in the mere hope of finding something. [emphasis added]

The new Examiner has not provided any insight as to the reasons for changing the identification of so many of the elements of the reference, and the Applicant respectfully submits that this creates an unnecessarily confused official record, since the reasoning of the new Examiner in making the changes is not documented.

It is well settled that an anticipation rejection cannot be predicated on an ambiguous reference (*In re Turlay*, 304 F.2d 893, 899 134 USPQ 355,

360(CCPA 1962)). The Examiner's ability to redefine the descriptions of the elements in the reference drawings to suit the rejection, without explaining the reasoning behind such redefinition, is compelling evidence that the Examiner's treatment of the reference is ambiguous.

Further, the Examiner characterizes the "support arm" as shown in Fig. 2 of the reference as "fig. 2, arm with #23 and #24 secured to the mounting device" and that the mounting device is "(fig. 2, #9)". Further, the x-ray source "(fig. 2, #1) is secured, rotatably about a substantially horizontal axis (fig. 2, #12) to the support arm" [arm with #23 and #24 secured to the mounting device #9]. Element #23 is unarguably "a chain wheel mounted on the horizontal axle 12". Further, the chain wheel #23 must be coupled to the endless chain #22 (Holmstrom, col. 2, lines 57-59). Whether the Examiner considers the flange #24 to be part of the axle #12 or the X-ray tube as disclosed in the reference, there is no "support arm". The axle #12, if not coupled to the endless chain #22 and thence to the remainder of the structure, including further chains, chain wheels, axles and the opposing X-ray amplifier, would not serve to restrain the "support arm" in rotation and the device described by Holmstrom would be completely inoperative.

Thus, the new associations of element names and reference designators in this Office action with structures in the reference is respectfully traversed.

Claim 1 recites, *inter alia*, a support arm secured to the mounting device, such that the x-ray source is secured, rotatably about a substantially horizontal axis, to the support arm.

The Examiner characterizes the reference as showing "an X-ray source (fig. 2, #1) is secured, rotatably about a substantially horizontal axis (fig. 2, #12) to the support arm.[arm with #23 and #24 secured to the mounting device #9] The Applicants respectfully submit that the "arm with #23 and #24 [the Examiner's identification of the support arm in the reference] secured to the mounting device" is a rotatable structure, and the X-ray source #1 is fixedly attached to the rotatable structure ("arm with #23 and #24") in the reference. This is not the arrangement of Claim 1 which recites, *inter alia*, a support arm

secured to the mounting device, such that the x-ray source is secured, rotatably about a substantially horizontal axis, to the support arm.

“Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, *arranged as in the claim.*” *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir 1984) (citing *Connell v. Sears Roebuck & Co.* 722 F.2d 1542 220 USPQ 193 (Fed. Cir. 1983)) (emphasis added).

Therefore, not all of the elements and limitations of the present Claim 1 are found in the reference, and a *prima facie* case of anticipation has not been made out.

For at least these reasons, Claim 1 is allowable, as is Claim 11. Claims 2-10 and 12-13, being claims dependent on an allowable base claim are allowable, without more.

35 U.S.C. § 103 (a)

Claims 5 and 13 were rejected under 35 U.S.C. § 103 (a) as being unpatentable over Holmstrom as applied to Claims 1 and 11, and further in view of Heinz et al. (US 4,901,339; “Heinz”). The rejection of Claims 5 and 13 is moot as the claims are dependent on allowable base claims, and nothing in Heinz is cited to overcome the deficiencies in the rejections thereof.

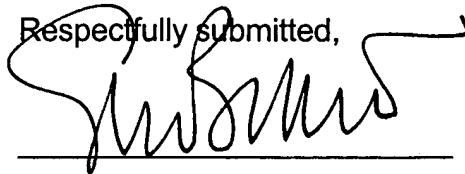
Conclusion

Claims 1-13 are pending.

For at least the reasons given above, the Applicant respectfully submits that the pending claims are allowable and looks forward to the early issuance of a Notice of Allowance.

The Examiner is respectfully requested to contact the undersigned in the event that a telephone interview would expedite consideration of the application.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'Sid Bennett', written over a horizontal line.

Sid Bennett.
Registration No. 53,981
Agent for Applicant

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, ILLINOIS 60610
(312) 321-4200